

CHARTER
OF THE
Town of Emmitsburg

FREDERICK COUNTY, MARYLAND

(Reprinted November 2008)

The Department of Legislative Services
General Assembly of Maryland
prepared this document.

For further information concerning this document contact:

Library and Information Services
Office of Policy Analysis
Department of Legislative Services
90 State Circle
Annapolis, Maryland 21401

Baltimore Area: (410-946-5400) Washington Area: (301-970-5400)

Other Areas: (1-800-492-7122)

TTY: (410-946-5401) (301-970-5401)

TTY users may also contact the
Maryland Relay Service to contact the General Assembly

E-mail: libr@mlis.state.md.us

Home Page: <http://mlis.state.md.us>

The Department of Legislative Services does not discriminate on the basis of race, color, national origin, sex, religion, or disability in the admission or access to its programs or activities. The Department's Information Officer has been designated to coordinate compliance with the nondiscrimination requirements contained in Section 35.107 of the Department of Justice Regulations. Requests for assistance should be directed to the Information Officer at Library and Information Services of the Department of Legislative Services.

CONTENTS

ARTICLE I Incorporation and General Government

Section

1. Incorporation.
2. Boundaries.
- 2a. 1988 Annexation.
- 2b. 1999 Annexation.
3. Police Limits.
4. Laws Applied to Annexed Areas.

ARTICLE II Board of Commissioners

1. Legislative Powers; Election Generally; Term.
2. Qualifications.
3. Salaries.
4. Meetings.
5. Quorum: Passage of Ordinances, Generally; Rules and Order of Business.
6. Attendance of Absent Members; Expulsion of Members.
7. Witnesses.
8. Vacancies.
9. Authority Over Offices, Departments and Agencies.
10. Authority to Fix Salaries.
11. Ordinances: Method of Passage, Generally; Veto.
12. Powers of the Board of Commissioners Enumerated.
13. Enforcement.
14. Jail Commitments.
15. Structure of the Board of Commissioners.

ARTICLE III Mayor

1. Election and Term.
2. Qualifications and Salary.
3. Powers and Duties.

ARTICLE IV Registrations, Nominations, and Elections

1. Eligibility To Vote.

2. Elections Generally.
3. Nominations.

ARTICLE V

Finance

1. Financial Supervision.
2. Expenditures to be Authorized by the Board of Commissioners.
3. Fiscal Year.
4. Budget – Estimates used for Preparation.
5. Budget Message.
6. Budget – Contents Generally.
7. Budget – Classification of Revenues.
8. Budget – Items to Appear Opposite Anticipated Revenues.
9. Budget – Status of Public Utilities to Appear in Separate Section.
10. Budget – Enumeration of Proposed Expenditures.
11. Budget – Items to Appear Opposite Proposed Expenditures.
12. Budget – Summary.
13. Budget – Public Record.
14. Budget – Change of Items by the Board of Commissioners.
15. Budget – Adoption.
16. Issuance and Signing of Checks.
17. Taxing Power.
18. Taxable Property and Assessments.
19. Authority to Borrow Money and Issue and Sell Bonds.
20. Regulations Concerning the Issuance and Sale of Bonds.
21. Short Term Borrowing.
22. Bonds and Notes Exempt from Taxes.
23. Collection of Taxes.

ARTICLE VI

Public Ways

1. Powers of the Town Generally.
2. Power of Town to Levy Special Assessments.
3. Procedure.

ARTICLE VII

Water, Sewers and Miscellaneous Public Works

1. Powers of the Town Generally.

ARTICLE VIII
Miscellaneous Provisions

1. Prior Rights and Obligations not Affected by the Charter.
2. Effect of the Charter on Existing Laws.
3. Effect of the Charter on Existing Ordinances, Resolutions, Etc.
4. General Penalty.
5. Inconsistent Laws.
6. Charter Powers not Exclusive.
7. Separability.

EMMITSBURG

ARTICLE I Incorporation and General Government

Section 1. Incorporation.

The citizens of the Town of Emmitsburg in Frederick County, Maryland, are hereby constituted a body corporate by the name of the Town of Emmitsburg and by that name shall have perpetual succession, sue and be sued, have and use a common seal which may be altered at pleasure, and have all powers and privileges incident to or that may attach to a municipal corporation, including those powers and general provisions as set forth in Article 23A of the Annotated Code of Maryland.

Section 2. Boundaries.

BEGINNING at an iron pipe S 67° 34' 24" E 17.91 feet from the southwest corner of Lot No. 8 fronting on Flat Run Drive and shown on the plat of Section 3 of "Emmit Gardens", dated October 1, 1962, and prepared by Elmer St. C. Maxwell & Associates, Professional Engineers, said plat being made a part of this description and running from said beginning point (1) S 64° 39' 37" E 403 feet to a pipe, thence (2) S 64° 39' 37" E 383.62 feet to a pipe, thence (3) N 24° 26' 11" E 813.47 feet along the eastern boundary of said section of "Emmit Gardens", said boundary being also the western boundary of the land of the Emmitsburg Civic Association, to a pipe in the south boundary of the State road right of way for Maryland Route #97, thence (4) with Route #97 in a westwardly direction along the northern boundary of "Emmit Gardens" 450 feet, more or less, to a point where the north boundary of Lot No. 27 (fronting on Meadow Lark Drive) intersects with a southerly extension of the west side of the Harney Road, thence (5) by a straight line N 46° E across Route #97 to the southwestern corner of the 13.692 acre tract of the "Three D, Inc.," thence with the west side of the Harney Road and the eastern boundary of the "Three D, Inc." tract (6) N 46° E 551.87 feet to a point, thence (7) leaving said road N 44° W 248.90 feet to a point, thence with a curve to the left having a radius of 1023.02 feet and an arc distance of 583.64 feet and a chord distance and bearing (8) N 60° 20' 39" W 575.76 feet to a point, thence (9) N 76° 41' 16" W 420 feet to a point on the west right of way line of U.S. Route #15, thence with U.S. Route #15, (10) N 13° 18' 44" E 780.28 feet, more or less, to a point, thence (11) N 02° E 51.00 feet to a point, thence (12) N 07° 35' 35" E 50.25 feet to a point, thence (13) N 11° 35' 27" E 100.04 feet to a point, thence (14) N 16° 10' 27" E 100.12 feet to a point, thence (15) N 18° 43' 01" E 109.44 feet to a point, thence (16) S 67° 16' 19" W 777.59 feet to a point, thence (17) S 89° 38' 29" W 1015.75 feet to a fence post, thence (18) S 75° 10' 25" W 453.28 feet to a point in the old corporate boundary, said point being in the bed of "Flat Run", and running thence up the bed of "Flat Run" (19) N 43° 51' 29" W 141.37 feet to a point, thence (20) N 28° 46' 25" W 413.51 feet to a concrete monument near the northeast corner of Lot No. 178 as indicated on the plat of Emmitsburg, thence (21) N 31° 14' 56" W 59.10 feet to a point on the north wall of a small bridge over "Little Run", thence (22) S 55° 10' 13" W 140.09 feet to a concrete monument in the bed of "Little Run", thence (23) up the bed of "Little Run" to a point on the easterly line of the James T. and Virginia A. Welty property shown on a plan dated April 6, 1979, prepared by

C. S. Davidson, Inc., York, Pennsylvania, extending thence along the James T. and Virginia A. Welty property (24) N 38° 14' 08" E 55 feet, thence (25) N 67° 14' 08" E 99.00 feet, thence (26) N 05° 14' 08" E 181.50 feet, thence (27) N 85° 45' 52" W 228.36 feet, thence along lands of James T. and Virginia A. Welty and lands now or formerly of Thomas W. and Jane P. Bollinger (28) N 03° 45' 52" W 685.72 feet, thence (29) S 87° 27' 32" E 753.06 feet, thence through lands now or formerly of Emmitsburg Associates (30) N 00° 11' 34" E 501.15 feet to a point in the centerline of the Irishtown Road; extending thence with said centerline (31) N 11° 36' 46" W 572.64 feet, thence by a curve to the left having a radius of 941.23 feet and an arc distance of 99.91 feet and a chord distance and bearing (32) N 14° 39' 13" W 99.86 feet, thence (33) N 17° 41' 39" W 588.10 feet, thence by a curve to the right having a radius of 150.00 feet and an arc distance of 108.27 feet and a chord distance and bearing (34) N 02° 58' 58" E 105.93 feet to a point at lands now or formerly of Charles A. Kline, thence (35) S 78° 57' 37" W 217.17 feet, thence (36) S 77° 28' 05" W 1113.29 feet to a point at lands now or formerly of William H. Carr, thence (37) S 06° 24' 16" W 1268.88 feet to a point at the "Mountain View Cemetery", thence (38) S 62° 43' 05" E 375.32 feet, thence (39) S 61° 08' 31" E 246.48 feet, thence (40) S 51° 07' 25" W 275.29 feet, thence (41) S 56° 25' 52" W 339.75 feet, thence continuing with the 1971 boundaries of said municipal corporation (formerly line #27) (42) S 55° 57' 05" W 215.21 feet to a point in the center of Emmitsburg-Waynesboro Road, thence with said centerline (43) S 47° 11' 55" E 299.75 feet to a point, thence (44) S 17° 50' 40" W 958.91 feet to a concrete monument, thence (45) S 57° 10' E 1839.00 feet to a concrete monument on the east side of a lane between the properties of George Sanders and D. R. Stansbury, thence binding on the east side of said lane, (46) S 32° 09' 05" W 1441.00 feet to a stone, said stone being a property marker of the Sisters of Charity, thence binding on the property of the Sisters of Charity the following three (3) courses and distances, namely: (47) S 71° 07' 38" E 1138.52 feet to a monument on the east side of U.S. Route #15, thence (48) S 77° 48' 42" E 1463.43 feet to a point, thence (49) N 80° 33' 53" E 857.57 feet to a granite monument, thence (50) N 06° 22' 45" E 475.61 feet to a point, thence (51) N 89° 03' E 644.45 feet to a concrete monument marked #28 near the south line of the property of the Emmitsburg Development Co., thence (52) by a straight line in a northeast direction 483.00 feet, more or less, to the point of beginning, and for sanitary purposes, health and police powers, the power and authority of the corporation shall extend to the distance of one mile from the boundaries as set forth. (Annex. Res., 1-8-79.)

Section 2a. 1988 Annexation.

Beginning for the same at a point on the right of way for Maryland State Route U.S. 15 at Station 418+50, 120.00 feet right of centerline and running thence with the right of way as shown on Plat Number 41,300 and 41,301 (1) North 1 degree 57' 24" East 101.98 feet thence (2) North 13 degrees 16' 00" East 450.00 feet thence (3) North 18 degrees 58' 38" East 452.25 feet thence (4) North 14 degrees 49' 44" East 283.95 feet to a point 152.74 feet right of Station 431+33.85 thence leaving the State Right of Way and Running (5) North 87 degrees 30' 36" East 449.87 feet, thence with a post and wire fence (6) North 87 degrees 03' 45" East 511.50 feet to a corner post on the eighth or North 20 degrees East 69.0 perches line as outlined in the beginning above and running thence with a portion of this line reversed (7) South 20 degrees 02' 52" West 367.74 feet thence with the next three previous lines (8) South 67 degrees 45' 51" East 457.07 feet to a point thence (9) South 79 degrees 00' 00" East 268.13 feet to a point thence (10) South 00 degrees 24' 35" East 317.54 feet to a locust stump at the northeast corner of that lot conveyed

from Thomas Baumgardner and Nina M. Baumgardner, his wife, to John R. Wantz by deed dated March 7, 1932, and recorded in Liber 382, folio 307, and running thence with it two (2) courses and distances (11) South 74 degrees 24' 10" West 161.91 feet to a cedar stump thence (12) South 19 degrees 59' 09" East 149.96 feet to a point on the centerline of Harney Road and running thence with said centerline in a curve to the right with a radius of 17,719.38 feet, through an arc of 345.43 feet, a central angle of 1 degree 07' 01" and with a chord of (13) South 55 degrees 58' 23" West 345.42 feet to intersect the east property line of that property conveyed from Brookside Dairy Farm, Inc. to Bernard Welty and Ann H. Welty, his wife, said deed dated November 10, 1961, and recorded in Liber 662, folio 163, and running thence with this property (14) North 43 degrees 53' 21" West 222.81 feet to a corner post thence (15) South 51 degrees 48' 15" West 149.20 feet to a corner post on the northeast corner of that lot conveyed from Brookside Dairy Farm, Inc. to James L. Nester and Elizabeth M. Nester, his wife, said deed dated September 5, 1956, and recorded in Liber 570, folio 100, and running thence with the rear of this lot (16) South 45 degrees 45' 46" West 199.15 feet to an iron pin found on the northeast corner of that lot conveyed from Stanley S. Grandstaff and Anna E. Grandstaff, his wife, to Michael Edward Joy and Patricia Mabel Joy, his wife, said deed dated November 12, 1975, and recorded in Liber 974, folio 173, and running thence with this lot (17) South 45 degrees 59' 36" West 166.49 feet to an iron pin found thence (18) South 43 degrees 22' 46" East 217.54 feet to a point on the centerline of Harney Road and running thence with said centerline (19) South 45 degrees 43' 15" West 10.89 feet to intersect that properties deed [deeded] to Norman S. Sheeley and Dorothy V. Sheeley, his wife, from John M. Fuss and Helen O. Fuss, his wife, by deeds dated April 9, 1954, and July 24, 1962, said deeds recorded in Liber 531, folio 118 and Liber 671, folio 394, respectively, and running thence with this property (20) North 76 degrees 08' 55" West 332.92 feet to an iron pin found thence (21) south 30 degrees 27' 20" West 20.25 feet thence (22) South 56 degrees 41' 41" East 284.05 feet to the centerline of Harney Road and running thence with said centerline (23) South 45 degrees 43' 15" West 117.90 feet to a point thence with the City Limits of Emmitsburg (24) North 44 degrees 16' 45" West 263.00 feet to a point where the City Limits intersects a width of 60.00 feet from line 22 above and running thence parallel to said line in a new line of division now made (25) North 56 degrees 41' 41" West 429.92 feet to a point thence (26) North 76 degrees 44' 00" West 351.69 feet to the place of beginning, containing 44.451 acres of land, more or less. Being that property as shown on Rothenhoefer Engineers Plat No. 761-102, subject to rights of way of record. (Res. No. 4-88, 10-16-88.)

Section 2b. 1999 Annexation.

Beginning at a square stone with a drill hole found at the beginning of S 71° 07' 38" E 1138. 52' line as described for the boundaries of the corporate limits of the Town of Emmitsburg in Article I, Section 2 of the Town Charter, thence binding on the outlines of the parcel herein intended to be described the following fifteen (15) courses and distances, the first being

1. S 31° 41' 17" W 1507.64' crossing Tom's Creek to a rebar & cap #603 set on the south bank of Tom's Creek, thence running with and binding on the outlines of a parcel of land being the remaining lands conveyed from Charles F. Stouter to Dons Lee Stouter, Trustee of the Dons Lee Stouter Revocable Living Trust by deed dated July 13, 1994 and recorded July 27, 1994 in Liber 2032 Folio 327, the nine (9) following courses and distances, the first being

2. N 09° 49' 00" W 71.03' to a point in the center of Tom's Creek, thence running with and binding on the outlines of a parcel of land as shown on an addition plat entitled, "Stouter Addition to Town of Emmitsburg", recorded at Plat Book 54 Page 51 of the following seven (7) courses and distances, and also running with the center of Tom's Creek the six (6) following courses and distances, the first being

3. N 76° 53' 41" W 166.23' to a point, thence

4. N 81° 57' 58" W 178.76' to a point, thence

5. N 66° 13' 40" W 91.77' to a point, thence

6. N 52° 14' 23" W 218.85' to a point, thence

7. N 56° 51' 11" W 117.05' to a point, thence

8. N 46° 03' 39" W 76.38' to a point, thence (corrected as now surveyed) a point, thence leaving the center of Tom's Creek (corrected as now surveyed)

9. N 46° 29' 16" W 10.86' to a point, thence leaving the center of Tom's Creek (corrected as now surveyed)

10. N 34° 45' 28" E 93.56' to a pinch pipe found, thence running with and binding on a parcel of land conveyed from Charles McC. Mathias, Jr., bachelor to Carson Gray Frailey and Anne Moore Frailey, his wife by deed dated May 24, 1954 and recorded May 25, 1954 in Liber 531 Folio 267

11. N 34° 42' 47" E 2735.85' to a bent iron pipe found, thence running with and binding on a parcel of land conveyed from James T. Hays and Margaret W. Hays, his wife to William G. Meredith and Betty Jean Meredith, his wife by deed dated April 1, 1968 and recorded April 1, 1968 in Liber 781 Folio 404, said parcel also being shown as the "remainder", on a plat entitled "Combined Preliminary/Final Plat, Sect. 1, Lot 1, Meredith's Wonderland" recorded at Plat Book 39 Page 173

12. N 60° 30' 22" E 198.22' to a point intersecting the corporate limits of The Town of Emmitsburg, thence running with and binding a portion of the 34th or S 57° 10' E 1839.00' line (corrected as now surveyed) as described for the boundaries of the corporate limits of The Town of Emmitsburg in Article I, Section 2 of the Town Charter

13. S 57° 23' 08" E 640.47' to a p.k. nail found in a macadam curb, thence continuing with the corporate limits of The Town of Emmitsburg, being a portion of the 35th or S 32° 09' 05" W 1441.00' line (corrected as now surveyed) described in the aforesaid Charter, and also running with and binding on a parcel of land conveyed from Ruth T. Gross and Catherine T. Saylor to the Board of Education of Frederick County by deed dated February 23, 1972 and recorded February 29, 1972 in Liber 871 Folio 422

14. S 31° 55' 57" W 529.62' to a Town of Emmitsburg rebar and cap found, thence continuing with the aforesaid 35th or S 32° 09' 05" W 1441.00' line (corrected as now surveyed) to the end thereof, and also running with and binding on a parcel of land conveyed from Catherine T. Saylor to Robert E. Hawkins by deed dated October 4, 1994 and recorded October 6, 1994 in Liber 2048 Folio 1293

15. S 31° 55' 57" W 911.95' to the point of beginning. (Res. No. 99-01, 5-27-99.) (See Note 1)

Section 3. Police Limits.

All municipal police officers shall, within the municipality and beyond those corporate limits for one-half (1/2) mile, as well as any municipally-owned property located outside of the aforementioned area, have the powers and authority to keep and enforce the laws of the State of Maryland and the Town of Emmitsburg. It is the responsibility of all municipal police officers to enforce all ordinances and laws of the town and state equally within the limits for one half (1/2) mile, or for so much of this distance as does not conflict with the powers of another municipal corporation.

All ordinances heretofore passed or that may hereafter be passed by the Mayor and Commissioners of the Town of Emmitsburg to preserve the peace, order and quiet, health and welfare of the town, or relating to planning and zoning, shall apply to said police limits and to all persons therein. The judges for the District Court of Frederick County shall have the power to apprehend and try any and all persons violating any of the provisions of said ordinances within the police limits of the town, and to enforce the fine, penalties, and punishment therein prescribed. (Res. No. 1-95, 2-7-96.)

Section 4. Laws Applied to Annexed Areas.

The Town of Emmitsburg shall exercise all governmental powers in any area now or hereafter lawfully annexed to and made a part of such town and in any annexed police limits resulting from any lawful annexation.

ARTICLE II

Board of Commissioners

Section 1. Legislative Powers; Election Generally; Term.

All legislative powers of the Town of Emmitsburg shall be vested in a Board of Commissioners, consisting of five Commissioners who shall be elected as hereinafter provided. The fifth Commissioner established by Charter Amendment Resolution No. 2006-01R shall be elected at the general election in 2006 or at a special election to be held. The terms of the Commissioners elected to office in the years 2001, 2002, and 2003 shall be for three years or until their respective successors are elected and qualified, and each such Commissioner's term shall expire on the first Monday in May of the third year following each Commissioner's

election. The terms of the Commissioners elected to office in the years 2004, 2005, and 2006 shall be for three years and five months or until their respective successors are elected and qualified, and each such Commissioner's term shall expire on the first Monday in October of the third year following each such Commissioner's election. Thereafter, each Commissioner shall hold office for a term of three years or until his or her successor is elected and qualified, and the regular terms of Commissioners shall expire on the first Monday in October of the third year following each Commissioner's election. (Res. No. 2003-004R, 1-14-04; Res. No. 2006-01R, 3-9-06.)

Section 2. Qualifications.

Commissioners shall have resided in Emmitsburg, for at least one year immediately preceding their election and shall be qualified voters. Each Commissioner shall reside in the town during his term of office, and his removal of his residence from the town during his term shall immediately vacate his office. The Board shall be the judges of the election and the qualification of its members.

Section 3. Salaries.

The Commissioners shall receive such compensation as shall be fixed by ordinance, but no Commissioner [Commissioner] shall have his compensation or salary increased or diminished during his term.

Section 4. Meetings.

The Board of Commissioners shall meet regularly once each month at a time and on a date as specified by ordinance. Special meetings may be called by the Mayor or by two Commissioners as often as necessary for the transaction of business. Meetings of the Board shall be opened to the public except as permitted by the laws of the State of Maryland, including, but not limited to, the Annotated Code of Maryland State Government Article – Section 10-501 et seq. (as amended) "Open Meetings Act", and the rules of the Board shall provide a reasonable opportunity for public comments to be heard at the regular monthly meeting and all public hearings in regard to any matters. (Res. No. 2003-06R, 9-26-03.)

Section 5. Quorum: Passage of Ordinances, Generally; Rules and Order of Business.

A majority of the Board of Commissioners shall constitute a quorum for the transaction of business and no ordinance shall be approved or other action taken without a majority favorable vote. The Board shall determine its own rules and order of business and it shall keep a journal of its proceedings. The Mayor is not a member of the Board of Commissioners and shall not vote on the passage of any resolution, ordinance, order or other action including any action to sustain or override a veto. (Res. No. 2006-01R, 3-9-06.)

Section 6. Attendance of Absent Members; Expulsion of Members.

The Board of Commissioners may compel the attendance of absent members in such manner and under such penalties as may be provided by ordinance. The Board by a vote of three of its members may expel a member from a meeting for disorderly conduct or violation of the rules; provided the Mayor also approves of such action. (Res. No. 2006-01R, 3-9-06.)

Section 7. Witnesses.

The Board of Commissioners shall have the power to provide by ordinance for summoning before the board or any of its committees any persons it deems necessary. Such persons may be compelled to testify on matters relating to the business of the city or its officials and employees.

Section 8. Vacancies.

In case of the death, refusal to act, disqualification, resignation, or removal of the Mayor or any of the Commissioners out of the limits of the corporation, the Commissioners, or a majority of them, for the time being, shall elect a Mayor or Commissioner to fill the vacancy for the period of time until the next election for a Mayor and/or Commissioners to be held by the Town. At the time of the next general election, a person shall be elected Mayor or Commissioner and shall serve the remainder of the term of the vacating Mayor or Commissioner, and until a successor shall be elected and qualified, and during the temporary absence from town of the Mayor, or his illness, and until the Mayor shall be the acting Mayor, with all rights, powers and duties of said Mayor, excepting the powers of appointment and removal.

Section 9. Authority Over Offices, Departments and Agencies.

The Board of Commissioners by ordinance may create, change, and abolish offices, departments, agencies, or commissions established or not specifically established by this Charter. The Board of Commissioners by ordinance may assign and delegate additional functions or duties to offices, departments, agencies, or commissions established by this Charter or otherwise, but may not discontinue or assign or delegate to any office, department, agency, or commission any function or duty specifically assigned by this Charter to a particular office, department, agency, or commission. In the creation, assignment, and delegation of duties the Board of Commissioners shall at all times reserve for itself the final decision on all policy and legislative matters and shall reserve for itself supervisory power over all offices, departments, agencies, or commissions established either by the Charter or by the Commissioners pursuant to this Charter.

Section 10. Authority to Fix Salaries.

The Board of Commissioners shall fix salaries for all employees and officers of the town.

Section 11. Ordinances: Method of Passage, Generally; Veto.

When any ordinance is introduced for passage by the Board of Commissioners, it shall be read and may be passed at that time. Legislative procedures shall be set out by ordinance. All ordinances passed by the Board shall be approved by the Mayor or passed over his veto in accordance with the provisions of Article III as hereinafter set forth.

Section 12. Powers of the Board of Commissioners Enumerated.

a. *General Powers.*

The Board of Commissioners shall have power to pass all ordinances, not contrary to the Constitution and laws of Maryland or this Charter, as it may deem necessary for the good government of the town; for protection and preservation of the town's property, rights, and privileges; for preservation of peace and good order; and for securing persons and property from violence, danger, or destruction; and for the protection of the health, education, safety, happiness, and welfare of the residents of Emmitsburg and visitors thereto and sojourners therein.

b. *Specific Powers.*

The Board of Commissioners shall have in addition to the above mentioned general powers, and any other powers which may be conferred in this Article, or otherwise by operation of law, power to pass ordinances not contrary to the laws and constitution of this State for the specific purposes mentioned as follows:

1. To provide for the codification of all ordinances which have been or may hereafter be passed.
2. To manage and control all property of the Corporation and to authorize the purchase or the sale of property in the name of the Corporation.
3. To provide for the form and manner of making contracts.
4. To lay taxes upon all real and personal property in such town, and regulate the collection and enforcement of the same.
5. To borrow money as authorized by Article V.
6. To provide for the adjustment of claims against the Corporation and the payment of the same.
7. To preserve the peace and order of town, and punish the resistance, hindrance and obstruction of public officers in the discharge of their duties; and to prevent vice, suppress gambling, houses of ill fame, and disorderly houses.
8. To protect the town from fire and unsafe buildings and to regulate the cleaning of chimneys.

9. To regulate the manufacturing and keeping of explosives and inflammable materials or conveyance thereof through the streets of the town.

10. To tax and regulate the use and construction of electrical plants and wires on which electricity is conducted within the town.

11. To tax and regulate the use and construction of telegraph, telephone, cable television and any other lines used for similar purposes in the town.

12. To protect public lamps or other public lights therein.

13. To regulate and contribute to the support of the fire companies in the town.

14. To provide for the laying out, grading, discontinuing, altering, paving, opening, improving, lighting, making and repairing streets, curbs, squares, walks, drains, sewers, gutters and to keep open and safe for public use and travel all streets, squares, alleys, or any other parts thereof, and to require sidewalks to be kept free from ice, snow, or other obstructions.

15. To regulate all shows, processions, assemblages, or parades in the streets or public places.

16. To regulate the speed and travel in general of all animals, bicycles, and automobiles, and to designate over what streets and thoroughfares the same may be driven.

17. To prohibit the running at large of animals in the streets or public places, and for the impounding of the same, and to prevent the cruelty to animals. To tax dogs and regulate the time and manner, when public safety requires it, of running at large.

18. To license and regulate public conveyances or forms of transportation, such as, but not limited to, taxies or bus services and the charges for the use thereof.

19. To regulate and prohibit the excavation and opening of streets, public walks, and public grounds for public or private purposes, whether temporary or permanent, and the regulation of any work or thing therein.

20. To regulate and provide for sewage disposal and to levy and collect charges for the use of the Emmitsburg sewage system.

21. To regulate laying and use of gas pipes, water pipes, electric light conduits, railroad tracks, and drains for public or private purposes in the streets of the town; and to levy and collect charges on the laying and use thereof.

22. To provide for sprinkling of the streets or parts thereof and establishing of public fountains of any kind, or hydrants, and providing of the same with water.

23. To regulate and provide for a water plant and the use thereof and all facilities used in connection therewith; and to regulate the use of water furnished by the town; and to levy and collect charges for the use of water and water facilities furnished by the town.

24. To provide for the health of the town and prevention of the introduction of contagious diseases within the Town's corporate limits.

25. To prevent and similarly abate nuisances of any kind, at the expense of persons maintaining them.

26. To establish quarantine regulations and regulate the burial and disinterment of the dead.

27. To provide for the licensing and regulating or restraining of theatricals, sports, exhibitions, public amusements and performances within the town's corporate limits.

28. To license, tax, and regulate the peddling of merchandise on the streets, as well as branch stores and other concerns established for temporary purposes only.

29. To establish, equip, regulate, and fund a police department; and to appoint town officers thereto in order to establish and maintain the peace and order of the town, and to insure the compliance with all town ordinances and actions passed or taken pursuant to this Charter.

30. To provide for and regulate the registration of voters in the town for town elections, and the holding of town elections.

31. To operate, maintain, supervise, plan and further regulate all public recreation and park services.

32. To plan and zone the town with the general purpose of guiding and accomplishing a co-ordinated, adjusted, and harmonious development of the town. Among other things, this zoning and planning authority may be used to promote the health, safety, morals, order, convenience, prosperity, and general welfare of the town within its police limits; to provide good civic design and arrangement; to promote wise and efficient expenditure of public funds; to make adequate provisions for traffic; to prevent the over-crowding of land and prevent undue concentration of population; and to provide adequate light and air.

33. To fill all vacancies in any town office not otherwise provided for.

34. And to do any and all things necessary to make effectual the powers herein and by law in any way conferred upon the town. (Res. No. 2-95, 2-7-96.)

Section 13. Enforcement.

For the purpose of carrying out the powers enumerated above, for the preservation of the cleanliness, health, peace and good order of the community; for the protection of the lives and property of the citizens; and to suppress, abate and discontinue, or cause to be suppressed, abated, or discontinued all nuisances within the corporate and sanitary limits of the City, the Board of Commissioners may pass all ordinances from time to time necessary. To insure the observance of these ordinances, in addition to the usual action of debt or such other civil

remedies as may exist in such cases by law for the recovery of the penalties thereto affixed, the Board of Commissioners may affix thereto penalties of a fine not exceeding One Hundred Dollars or imprisonment for not exceeding ninety days, or both, except as otherwise provided in this Charter, or in State law.

Section 14. Jail Commitments.

Any judge of a court having jurisdiction in this County, being the District Court for Frederick County, when imposing any fine, penalty or forfeiture, for the violation of any ordinance of the Town of Emmitsburg, shall order the person convicted to be committed to the public jail if he shall fail or refuse to pay the fine, penalty, or forfeiture and costs, there to remain until the same are paid or until discharged according to law; and the Sheriff of said County shall receive and safe keep in the public jail all persons who shall be committed thereto for a breach of any of the laws or ordinances of the Town of Emmitsburg, according to the tenor of the commitment, and in the same manner and under the same regulations as persons committed for violations of the laws of this State.

Section 15. Structure of the Board of Commissioners.

a. Each year the Board of Commissioners shall elect from among its membership, at a meeting at which all Commissioners are present, a Treasurer and a President of the Board of Commissioners.

b. The President of the Board of Commissioners shall preside over all meetings of the Board, and shall be acting Mayor when the circumstances are such that the Mayor cannot function in his capacity.

c. The town Treasurer shall counter-sign all checks and receive such other powers as the Board of Commissioners shall from time to time designate and delegate to him.

ARTICLE III

Mayor

Section 1. Election and Term.

The Mayor shall be elected as hereinafter provided. The term of the Mayor elected to office in 2002 shall be for 3 years and shall expire on the evening of the first Monday in May of 2005. The term of the Mayor elected to office in the year 2005 shall be for 3 years and 5 months and shall expire on the first Monday in October of 2008. Thereafter, the Mayor shall hold office for a term of three years, or until his or her successor is elected and shall qualify. The Mayor's term shall expire on the evening of the first Monday in October of the third year after the regular election. (Res. No. 2, 12-30-80; Res. No. 86-2, 4-22-86; Res. No. 98-17, 1-21-99; Res. No. 2003-005R, 1-14-04.)

Section 2. Qualifications and Salary.

The Mayor must be a legal resident of Emmitsburg, Maryland, for at least two years immediately preceding his election and shall be a qualified voter. He shall receive such salary as specified by ordinance, but it may not be raised or diminished during his term of office. The Mayor shall reside in the town during his term of office and his removal of his residence from the town during his term, shall immediately vacate his office. If this should happen, the President of the Board of Commissioners shall be acting Mayor, as set forth in Article II, Section 15. (Res. No. 2, 12-30-80.)

Section 3. Powers and Duties.

a. *Generally.* The Mayor shall see that the ordinances of the town are faithfully executed and shall be the Chief Executive Officer. The Mayor shall be responsible for the administration of the town's affairs to the Board of Commissioners and to the voters of the town. He may call upon any officer or employee of the town, entrusted with receipt and expenditure of public monies, for a statement of his account, as often as he may think necessary. When required by the Commissioners, the Mayor shall report in writing the general state of the town, and at any time may recommend any matters as he may think will promote its interest.

b. *Approval or Veto of Legislation.* The Mayor shall approve or disapprove every order, resolution, or ordinance passed by the Board of Commissioners. Every order, resolution, or ordinance passed by the Commissioners shall be submitted by them to him immediately after its passage at a public meeting and within ten calendar days after the date of the meeting at which the action was passed he shall act thereon. If he shall approve or fail to act on it within the ten calendar day deadline, it shall become operative and effective, which fact shall be endorsed by the Town Clerk. If the Mayor shall veto any order, resolution, or ordinance he shall notify the Town Clerk of that fact and transmit his reasons for such action in writing to the Commissioners at their next regular meeting; and such order, resolution, or ordinance shall not become operative or effective unless passed over his veto within thirty (30) calendar days of the date on which the Mayor exercised the veto by an affirmative vote [of] at least four (4) members of the Board of Commissioners. The Mayor may withdraw his veto at any time during the period of thirty calendar days after vetoing an action of the Board of Commissioners in which case the action shall be deemed to have been approved by the Mayor. (Res. No. 2, 12-30-80, Res. No. 2006-02R, 3-9-06.)

c. *Appointment and Discharge of Officers and Employees.* The Mayor, with the advice and consent of the Board of Commissioners, shall appoint all employees of all offices, departments, commissions, and agencies of town government as established by this Charter or by ordinance of the Board of Commissioners, unless otherwise provided in this Charter or unless otherwise provided in the town ordinance establishing the office, department, commission, or agency. If at any time the Mayor shall think that any person appointed to office by him or her shall be incompetent or unfaithful to the duties of his or her office, he or she shall file a written statement of charges against such person with the Commissioners, a copy of which shall also be sent to the persons charged, and if after full hearing, a majority of the Board of Commissioners shall find the officer or employee unfaithful or incompetent, then the Mayor may dismiss such

persons. The vacant position may then be filled by the Mayor with advice and consent of the Commissioners. All employees and officers shall serve at the pleasure of the Mayor, but may be discharged only as previously set forth herein. (Res. No. 2, 12-30-80.)

d. *Miscellaneous Powers and Duties.* The Mayor shall have such other duties and powers as are given to him by other Articles of this Charter and by ordinances passed pursuant to this Charter by the Board of Commissioners, such as, but not limited to, the financial supervision of the town and preparation of the budget. (Res. No. 2, 12-30-80.)

ARTICLE IV

Registrations, Nominations, and Elections

Section 1. Eligibility To Vote.

Every person who is eligible to vote in state and county elections and who has resided in Emmitsburg for at least thirty days next preceding any town election and is registered in accordance with the provisions of this Charter shall be a qualified voter in this town.

Section 2. Elections Generally.

All elections shall be held by ballot or voting machine, and in such manner as shall from time to time be directed by ordinance. The Mayor, with the consent and approval of the Board of Commissioners shall appoint judges of elections in accordance with procedures which may be established by ordinance. Such judges shall conduct the elections and shall keep the poles [polls] open from 7:00 A.M. to 8:00 P.M. Voters may register on any business day during normal business hours with the Town Clerk; provided, however, that the Mayor and the Commissioners shall have the power by ordinance to change from time to time the hours of registration and voting in the town. (Res. No. 4-95, 2-7-96; Res. No. 2003-02R, 9-24-03.)

Section 3. Nominations.

No nomination for office is required and any person desiring to run for office shall file a certificate of candidacy with the Town Clerk in accordance with procedures which may be established by ordinance. (Res. No. 4-95, 2-7-96; Res. No. 2003-02R, 9-24-03.)

ARTICLE V

Finance

Section 1. Financial Supervision.

The Mayor shall have complete supervision over the financial administration of the town government. The Mayor may delegate, under his supervision, any of the financial powers and duties granted him by this Charter. He shall receive any assistance he requests with regard to financial matters from any town officer or employee.

Section 2. Expenditures to be Authorized by the Board of Commissioners.

No public money may be expended without having been appropriated by the Board of Commissioners.

Section 3. Fiscal Year.

The town shall operate on an annual budget with the fiscal year beginning on the first day of July and ending on the last day of June of the following calendar year.

Such fiscal year shall also constitute the tax year, the budget year and the accounting year.

Section 4. Budget – Estimates used for Preparation.

At the first meeting in May of each year the Mayor shall present to the Board of Commissioners a complete budget for the upcoming fiscal year and the explanatory budget message required by Section 5 hereof. The annual budget to be submitted by the Mayor shall include a statement of anticipated capital improvement projects for the upcoming fiscal year. The Mayor, with the assistance of such town officers and employees as he requests, shall obtain from the head of each office, department and agency the following: (a) estimates of revenue and expenditures for the next fiscal year, detailed by organization units and character and object of expenditures; (b) such other supporting data as he may request; and (c) an estimate of all capital projects pending or which such office, department or agency head believes should be undertaken within the budget year and within the next five succeeding years.

In preparing the budget, the Mayor shall review the estimates, shall hold hearings thereon with the head or other representative of the office, department or agency concerned, and may revise the estimates as he deems advisable. (Res. No. 2006–13R, 10–10–06.)

Section 5. Budget Message.

The budget message submitted by the Mayor to the Board of Commissioners shall explain the budget, shall contain an outline of the proposed financial policies of the town for the budget year, and shall describe the important features of the budget plan. It shall set forth the reasons for salient changes from the previous year in cost and revenue items and shall explain any major changes in financial policy. It shall include a statement of pending capital projects of a capital program for the next five fiscal years. Attached to the budget message shall be such supporting schedules, exhibits and other explanatory material, in respect to both current operations and capital improvements, as the Mayor shall believe useful to the Board of Commissioners.

Section 6. Budget – Contents Generally.

The budget shall provide a complete financial plan for the budget year. It shall contain in tabular form:

- (a) A general summary.
- (b) Detailed estimates of all anticipated revenues applicable to proposed expenditures.
- (c) All proposed expenditures.

The total of the anticipated revenues shall equal the total of the proposed expenditures.

Section 7. Budget – Classification of Revenues.

Anticipated revenues shall be classified as “surplus,” “miscellaneous revenue” and “amount to be raised by property tax.” Miscellaneous revenues shall be subclassified by sources.

Section 8. Budget – Items to Appear Opposite Anticipated Revenues.

In parallel columns opposite the several items of anticipated revenues there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amount of such items actually received during the last completed fiscal year, the amount of each such item in the budget of the current fiscal year, and the amount actually received to the time of preparing the budget plus receipts for the remainder of the fiscal year estimated as accurately as may be.

Section 9. Budget – Status of Public Utilities to Appear in Separate Section.

The anticipated revenues and proposed expenditures and anticipated surplus of water and sewer operations and any other public utilities owned or operated by the town shall be stated in a separate statement of the budget.

Section 10. Budget – Enumeration of Proposed Expenditures.

The proposed expenditures shall be itemized in such form and to such extent as shall be provided by law, or, in the absence of such provision, by regulations established by ordinance. Separate provisions shall be included in the budget for at least the following items:

- a. Interest, amortization and redemption charges on the public debt for which the faith and credit of the town is pledged.
- b. Other statutory expenditures.
- c. The payment of all judgments.
- d. An amount equal to the deficit for operations of water and sewer and other public utilities during the last completed fiscal year, separately stated for each utility which appears in a separate section of the budget.

e. Administration, operation and maintenance of each office, department or agency of the town itemized by character and [and] object of expenditures.

f. Contingent expense in an amount of not more than three per cent of the total proposed expenditures.

g. Expenditures proposed for capital projects.

Section 11. Budget – Items to Appear Opposite Proposed Expenditures.

In parallel columns opposite the several items of proposed expenditures, there shall be placed the amount of each such item in the budget of the last completed fiscal year, the amount of such items actually expended during the last completed fiscal year, the amount of each such item in the budget of the current fiscal year, and the amount actually expended to the time of preparing the budget plus the expenditures for the remainder of the current fiscal year estimated as accurately as may be.

Section 12. Budget – Summary.

At the head of the budget there shall appear a summary of the budget, which need not be itemized further than by principal sources of revenue and kinds of expenditures, in such form as to present to the tax payers a simple and clear picture of the detailed estimates of the budget.

Section 13. Budget – Public Record.

The budget and budget message and all supporting schedules shall be a public record in the office of the Town Clerk, open to public inspection by anyone.

Section 14. Budget – Change of Items by the Board of Commissioners.

The Commissioners may insert new items or may increase or decrease the items of the budget and where they shall increase the total proposed expenditures, they shall also increase the total anticipated revenue to balance the same.

Section 15. Budget – Adoption.

The budget shall be prepared and adopted in the form of an ordinance. The budget for the new fiscal year shall be finally adopted not later than 27th day of June, and if not adopted by the Commissioners on or prior to such day, the budget, as submitted by the Mayor, shall be deemed to have been finally adopted by the Commissioners.

Section 16. Issuance and Signing of Checks.

All checks issued in payment of municipal obligations shall be issued and signed by the Town Treasurer and shall be countersigned by the Mayor.

Section 17. Taxing Power.

The Town of Emmitsburg [Emmitsburg] shall have the power to levy annually on the assessable property in said town and collect such taxes as in its judgment may be necessary to pay all the debts, obligations and expenses of the town government which have been or may hereafter be lawfully incurred. As part of its taxing power, the Town of Emmitsburg shall have the power to levy and to collect a general assessment on all property in the town to pay for the construction and/or maintenance of water mains, sewer mains, public ways, sidewalks, curbs, gutters, and storm water sewers. This general assessment need not be on the basis of assessed valuation of the property, but may be on any equitable basis determined by the Board of Commissioners.

Section 18. Taxable Property and Assessments.

All real and tangible personal property within the limits of the town or which may have a situs there by the reasons of the residence of the owner therein, shall be subject to taxation for municipal purposes and the assessment for such purposes shall be the same as that for State and County taxes. Agricultural property within the town may be exempt from the town taxes or taxed at a lower rate than other property in the town. Industrial property may also be exempted or taxed at a lower rate than other property in the town.

Section 19. Authority to Borrow Money and Issue and Sell Bonds.

The Town of Emmitsburg shall have the power to borrow on the faith and credit of the town from time to time as may be deemed necessary for its general corporate purposes. The town may issue and sell bonds for such indebtedness in accordance with the provisions of Section 20 of this Article or with State law.

Section 20. Regulations Concerning the Issuance and Sale of Bonds.

Except as otherwise specified under the provisions of this Charter, the total amount of bonds issued under the authority of this Charter, when added to bonds outstanding, shall not exceed a forty percent of the total assessed value of all taxable property in the town. The Board of Commissioners may regulate the issuing or sale of bonds in any manner not contrary to this Article.

Section 21. Short Term Borrowing.

The town shall have the power to borrow on a short term basis sums not to exceed in the aggregate Twenty Thousand Dollars and to issue notes or other evidences of indebtedness for such borrowing. Such borrowing shall be done as provided by ordinance.

Section 22. Bonds and Notes Exempt from Taxes.

All bonds, notes or other evidences of indebtedness issued and sold by the Town of Emmitsburg shall be exempt from all State, County and Town taxes in Maryland.

Section 23. Collection of Taxes.

a. The tax year shall be from July 1 thru June 30, as set forth in Section 3 of this same Article. All taxes provided for in this Charter and ordinances as may be passed thereunder shall be due on the first day of July and shall be overdue and in arrears on the first day of the succeeding October, and bear interest at the rate of two-thirds of one percent for each month or fraction of a month thereafter until paid. The town may establish discounts for prompt payment of taxes. Tax sales of properties for which taxes have not been paid shall be held in accordance with Tax Property Article, Sections 14-808 to 14-854 and any subsequent amendments thereto, of the Annotated Code of Maryland.

b. Where improvements are added to any property resulting in an increase of assessment between July 1 and December 31 of any year, the town tax for the last half of the fiscal year, being one-half of the total annual levy, shall be due on the first day of January, and shall be overdue and in arrears on the first day of the succeeding April, and shall bear interest at the rate of one percent for each month or fraction of a month thereafter until paid. The same provisions as to discounts and tax sales as were applicable in sub-section a., shall also apply herein.

c. All checks or money for the payment of taxes shall be paid to or made payable to the Town of Emmitsburg. The agent for the collection of such taxes for the Town of Emmitsburg shall be the town Treasurer. The taxes shall be received according to the manner and the procedure as he shall designate. (Res. No. 5-95, 2-7-96.)

ARTICLE VI

Public Ways

Section 1. Powers of the Town Generally.

The Town of Emmitsburg shall have charge of all the public ways in the town except such as may be under the jurisdiction of the Maryland State Roads Commission. Subject to the laws of the State of Maryland, the Town of Emmitsburg may do whatever it deems necessary to establish, change from time to time, operate, and maintain in good condition the public ways of the town.

Section 2. Power of Town to Levy Special Assessments.

The Town of Emmitsburg may levy and collect taxes in the form of special assessments upon property in a limited and determinable area for special benefits conferred upon the property by the installation or construction, of water mains, sanitary sewer mains, storm water sewers, curbs and gutters and by the construction, and paving of public ways and sidewalks or parts thereof, and it may provide for the payment of all or any part of the above projects out of the proceeds of the special assessment. The cost of any project to be paid in whole or in part by special assessments may include the direct cost thereof, the cost of any land acquired for the project, the interest on bonds, notes, or other evidences of indebtedness issued in anticipation of

the collection of special assessments, a reasonable charge for the services of the administrative staff of the town, and any other item of cost which may reasonably be attributed to the project. (Res. 1–84, 9–25–84.)

Section 3. Procedure.

(a) *Provided.* – The procedure for special assessments, wherever authorized in this charter, is as provided in this section.

(b) *Assessment of cost.* – The cost of the project being charged for shall be assessed according to the front foot rule of apportionment or some other equitable basis determined by the Board of Commissioners.

(c) *Amount.* – The amount assessed against any property for any project or improvement shall not exceed the value of the benefits accruing to the property therefrom, nor shall any special assessment be levied which causes the total amount of special assessments levied by the Town and outstanding against any property at any time, exclusive of delinquent installments, to exceed twenty-five per centum (25%) of the assessed value of the property after giving effect to the benefit accruing thereto from the project or improvement for which assessed.

(d) *Uniformity of rates.* – When desirable, the affected property may be divided into different classes to be charged different rates, but, except for this, any rate shall be uniform.

(e) *Levy of charges; public hearing; notice.* – All special assessment charges shall be levied by the Board of Commissioners by ordinance. Before levying any special assessment charges, the Board of Commissioners shall hold a public hearing. The Town Clerk shall cause notice to be given stating the nature and extent of the proposed project, the kind of materials to be used, the estimated cost of the project, the portion of the cost to be assessed, the number of installments in which the assessment may be paid, the method to be used in apportioning the cost, and the limits of the proposed area of assessment. The notice shall also state the time and place at which all persons interested, or their agents or attorneys, may appear before the Board of Commissioners and be heard concerning the proposed project and special assessment. Such notice shall be given by sending a copy thereof by mail to the owner of record of each parcel of property proposed to be assessed and to the person in whose name the property is assessed for taxation and publication of a copy of the notice at least once in a newspaper of general circulation in the town. The Town Clerk shall present at the hearing a certificate of publication and mailing of copies of the notice, which certificate shall be deemed proof of notice, but failure of any owner to receive the mailed copy shall not invalidate the proceedings. The date of hearing shall be set at least ten and not more than thirty days after the Town Clerk shall have completed publication and service of notice as provided in this section. Following the hearing the Board of Commissioners, in its discretion, may vote to proceed with the project and may levy the special assessment.

(f) *Right to appeal.* – Any interested person feeling aggrieved by the levying of any special assessment under the provisions of this section shall have the right to appeal to the

Circuit Court for Frederick County within ten days after the levying of any assessment by the Board of Commissioners.

(g) *Payments; interest.* – Special assessments may be made payable in annual or more frequent installments over such period of time, not to exceed ten years, and in such manner as the Board of Commissioners may determine. The Board of Commissioners shall determine on what date installments shall be due and payable. Interest may be charged on installments at the rate to be determined by the Board of Commissioners.

(h) *When due; lien on property; collection.* – All special assessment installments are overdue six months after the date on which they became due and payable. All special assessments shall be liens on the property and all overdue special assessments shall be collected in the same manner as town taxes or by suit at law.

(i) *Town Clerk.* – All special assessments shall be billed and collected by the Town Clerk. (Res. 1–84, 9–25–84.)

ARTICLE VII

Water, Sewers and Miscellaneous Public Works

Section 1. Powers of the Town Generally.

The Town of Emmitsburg shall have the power to construct, operate, maintain, reconstruct, enlarge, alter, repair, improve, or dispose of water systems or waterworks, sewerage systems and treatment plants, storm water sewers, refuse and/or garbage collection and disposal systems, airports, public markets, electric light plants, and electrical distribution systems, fire plugs and other public works and to have surveys, plans, specifications and estimates made for the same and to do such things and make such rules and regulations regarding them as it deems necessary; and to assess the costs, in whole or in part, on the abutting or [of] benefited property in any equitable manner as provided by the Commissioners.

ARTICLE VIII

Miscellaneous Provisions

Section 1. Prior Rights and Obligations not Affected by the Charter.

All rights, title and interest held by the Town of Emmitsburg or any other person or corporation at the time this Charter is adopted, in or to any lien acquired under any prior Charter of the town, is hereby preserved for the holder in all respects as if this Charter had not been adopted, together with all rights and remedies in relation thereto. This Charter shall not discharge, impair or release any contract, obligation, duty, liability or penalty whatever existing at the time this Charter becomes effective. All suits and actions, both civil and criminal, pending or which may hereafter be instituted for cause of actions now existing or offenses already committed against any law or ordinance repealed by this Charter shall be instituted, proceeded

with and prosecuted to final determination and judgment as if this Charter had not become effective.

Section 2. Effect of the Charter on Existing Laws.

All laws in effect at the time this Charter is adopted relating to or applicable to the Town of Emmitsburg which are not inconsistent with this Charter shall remain in effect until changed or repealed by the General Assembly of Maryland.

Section 3. Effect of the Charter on Existing Ordinances, Resolutions, Etc.

All ordinances, resolutions, rules and regulations in effect in the Town of Emmitsburg at the time this Charter is adopted and which are not in conflict with the provisions of this Charter, shall remain in effect until amended, altered, or repealed according to the provisions of this Charter.

Section 4. General Penalty.

a. To ensure the observance of the Charter and the ordinances of the Town, the Council shall have the power to provide that violation thereof shall be a misdemeanor, unless otherwise specified as an infraction, and shall have the power to affix thereto penalties of a fine not exceeding \$500.00 or imprisonment for not exceeding 90 days, or both such fine and imprisonment. Any persons subject to any fine, forfeiture, or penalty by virtue of any ordinance passed under the authority of this charter shall have the right of appeal within 10 days to the circuit court of the county in which the fine, forfeiture, or penalty was imposed. The Council may provide that, where the violation is of a continuing nature and is persisted in, a conviction for one violation shall not be a bar to a conviction for a continuation of the offense subsequent to the first or any succeeding conviction.

b. (1) The Council may provide that violations of any municipal ordinances shall be a municipal infraction unless that violation is declared to be a felony or misdemeanor by the laws of the state or other ordinance. For purposes of this article, a municipal infraction is a civil offense.

(2) A fine not to exceed \$100.00 may be imposed for each conviction of a municipal infraction. The fine is payable by the offender to the town within 20 days of receipt of a citation. Repeat offenders may be assessed a fine not to exceed \$200 for each repeat offense, and each day a violation continues shall constitute a separate offense.

(3) Any person receiving a citation for an infraction may elect to stand trial for the offense by notifying the town in writing of this intention at least five (5) days prior to the date set for payment of the fine. Failure to pay the fine or to give notice of intent to stand trial may result in an additional fine or adjudication by the court.

(4) Adjudication of a municipal infraction is not a criminal conviction for any purpose, nor does it impose any of the civil disabilities ordinarily imposed by a criminal conviction. (Res. No. 3-95, 2-7-96.)

Section 5. Inconsistent Laws.

All acts and parts of acts, general or local, inconsistent with the provisions of this Charter, be and the same hereby are repealed to the extent of such inconsistency. Nothing contained herein shall affect or restrict any control which the State Board of Health is empowered by law to exercise in any part of this State.

Section 6. Charter Powers not Exclusive.

The enumeration of particular powers in this Charter shall not be held or deemed to be exclusive, and the town shall have such other powers as are incident to those specifically mentioned or as are a necessary consequence of the powers herein conferred. In addition to the powers enumerated in this Charter, the town shall have all powers, rights and privileges now or hereafter granted by the Constitution and laws of the State of Maryland.

Section 7. Separability.

If any section or part of section of this Charter shall be held invalid by a court of competent jurisdiction, such holding shall not affect the remainder of this Charter nor the context in which such section or part of section shall [be] held invalid shall appear, except to the extent that an entire section or part of section may be inseparably connected in meaning and effect with the section or part of section to which such holding shall directly apply.

NOTES

(1) Resolution 2006–08R, effective October 26, 2006, provided for the annexation of 39.69 acres of land, more or less. Resolution 2008–03R, effective December 4, 2008, provided for the annexation of 0.48 acres of land, more or less. These Resolutions, however, failed to provide for a change in the boundary description contained in this Charter. Therefore, these annexation resolutions are simply noted pursuant to the municipal general powers.

(2) Resolution No. 2003–02R, effective September 24, 2003, amended Article IV, Section 2. The Section as set forth in the Resolution as existing language was not identical to the Section set forth in this Charter. Thus, the Section contained in this Charter has been amended, but only to reflect noted changes made to the Section set forth in the Resolution (*i.e.*, material bracketed was deleted and material in capital letters was added).